

the gaming establishment will actually have a detrimental impact (economic, social, developmental, etc.).³⁸⁴

According to Woodward's notes, Robert Anderson agreed with Duffy because he felt that this would calm communities' fears, but would not lock DOI in as precedent because it was unusual to have a tribal proposal to place a casino so near another existing Indian gaming facility. Woodward stated "the upshot of the meeting" was that Duffy wanted the letter rewritten to include Section 20 of IGRA as a further basis "because the consultation process resulted in vehement and wide-spread local government and nearby Indian tribes' opposition to locating a casino at this site."

After receiving Woodward's notes of the July 5 meeting, Meisner sent a reply e-mail in which he strongly disagreed with Duffy's position:

My view on this matter is that the bald objections of surrounding communities including Indian tribes are not enough evidence of detriment to the surrounding communities to find under section 20 of IGRA that the acquisition for gaming will be detrimental to the surrounding communities. . . . Specific examples of detriment must be presented by the communities during the consultation period in order for us to determine that there will be actual detriment. A finding of detriment to surrounding communities will not hold up in court without some actual evidence of detriment.³⁸⁵

³⁸⁴Duffy told investigators that he believed this interpretation of IGRA as generally prohibiting off-reservation gaming where local communities object is consistent with his discussions with legislators and their staff who were involved in Indian Affairs issues during his tenure at DOI. Duffy also inferred that the decision to structure IGRA as a list of exceptions to a broad prohibition on off-reservation gaming reflected a congressional bias against such acquisitions. *Compare* discussion of statute in Section II.B.1.b., *supra*. He conceded, however, that the written legislative history contains little explicit insight into Congressional intent.

³⁸⁵E-mail from Kevin Meisner to Troy Woodward, George Skibine, Paula Hart, Tom Hartman and Larry Scrivner, July 6, 1995.